

Appl. No.: 10/672,613
Amendment dated January 19, 2005
Reply to Office Action of October 20, 2004

REMARKS/ARGUMENTS

Reexamination and reconsideration of this Application, withdrawal of the objection, and formal notification of the allowability of all claims as now presented are earnestly solicited in light of the above claim amendments and remarks that follow.

Claims 1, 2, 7, 16, and 19 have been amended to remove language directed to compounds including one or more additional heterocyclic radicals. Claim 12 has been amended to change its dependency. Claims 8 and 17 have been canceled. Accordingly, claims 1-7, 9-16, and 18-23 are pending in the present application.

The Examiner previously restricted the claims of the invention and required election of either Group I (claims 1-20) or Group II (claims 21-23). The Examiner further required election of a single compound within Group I. In a telephone conversation with the Examiner on September 15, 2004, Applicant elected Group I and, specifically, the compound of example 140.

At pages 9-10 of the present Office Action, the Examiner has identified the elected invention for search and examination as comprising the compounds of originally filed claim 1 but excluding compounds having one or more additional heterocyclic radicals. In the description of R¹¹, the Examiner failed to include the embodiment wherein R¹¹ is CH=CH-phenyl. As such group does not encompass a heterocyclic radical, Applicant respectfully submits this embodiment is within the elected invention. Accordingly, this embodiment is included in the currently amended claims. If the Examiner believes that the embodiment wherein R¹¹ is CH=CH-phenyl is not included within the elected invention, Applicant requests that the Examiner contact the undersigned by telephone at the number provided below.

Pending claims 1-7, 9-16, and 18-23 stand objected to as containing non-elected subject matter; however, the Examiner has stated the claims would be allowable over the prior art of record if rewritten to include only the elected invention. As noted above, claims 1, 2, 7, 16, and 19 have been amended to remove language reciting compounds including one or more additional heterocyclic radicals. Further, claims 8 and 17 have been canceled. Therefore, Applicant submits all pending claims, as amended, are directed to the elected invention. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection.

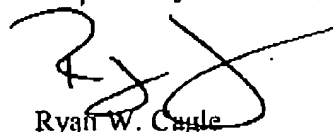
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Applicant respectfully submits that all claims as now submitted are now in condition for immediate allowance. Accordingly, a Notice of Allowance is respectfully requested in due course. If any minor formalities need to be addressed, the Examiner is directed to contact the undersigned attorney by telephone to facilitate prosecution of this case.

It is noted that an initialed copy of the PTO Form 1449 that was submitted with Applicants' Information Disclosure Statement filed September 10, 2004 has not been returned to Applicants' representative with the Office Action. Accordingly, it is requested that an initialed copy of the Form 1449 be forwarded to the undersigned with the next communication from the PTO. In order to facilitate review of the references by the Examiner, a copy of the Information Disclosure Statement and the Form 1449 are attached hereto. Copies of the cited references were provided at the time of filing the original Information Disclosure Statement, and, therefore, no additional copies of the references are submitted herewith. Applicants will be pleased to provide additional copies of the references upon the Examiner's request if it proves difficult to locate the original references.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the US Patent and Trademark Office at Fax No. (703) 872-9306 on the date shown below.

Rebecca Kerney
Rebecca Kerney

1/19/05
Date